

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: John A. Russo
City Manager

Date: December 20, 2011

Re: Approve Modifications to the Tree Removal Policy Contained in the
Master Street Tree Plan

BACKGROUND

The 2010 Master Street Tree Plan (MSTP) is an overarching policy document that specifies policies for street trees in Alameda. This two-volume document specifically relates to street trees and includes a Tree Removal Policy, Table of Required Distances between City Infrastructure and Trees, Guidelines for the Protection of Important Nesting Habitat, and a Special Planting Zone Map. The MSTP also recommends tree species based on site performance, visual aesthetics, and long-term maintenance.

On September 28, 2009, the Planning Board (PB) heard public comment on and provided input and suggested changes to the draft MSTP. The PB continued the item to allow staff an opportunity to consider and address the PB's comments. After meeting with residents, staff presented revisions to the MSTP to the PB on November 9, 2009, and the PB recommended approval of the MSTP to the City Council. On February 16, 2010, the City Council adopted the MSTP.

On September 6, 2011, the City Council awarded a contract to Suarez and Munoz Construction, Inc. for the Park Street Streetscape Project (Phase 2), which covers Lincoln Avenue to Webb Avenue and Central Avenue to San Jose Avenue. The first phase of the Park Street Streetscape project, from Webb Avenue to Central Avenue (including portions of Santa Clara Avenue) was completed in 2006.

As part of the Phase 2 project, 31 existing street trees were removed from October 19 through October 21, 2011. The public was angered by the removal of the trees and the lack of noticing. Several speakers attended the October 24, 2011 PB meeting to voice their concerns. As a result, the PB requested that a review of the MSTP be placed on its next available agenda so that policy changes could be recommended to the City Council to address the Park Street tree removal incident and ensure that appropriate public notification is provided for future tree removals. The PB meeting was held on November 28, 2011.

DISCUSSION

The MSTP is a community based master plan document related to street trees in Alameda. The adoption process included seven public meetings throughout the city to elicit input from the community. The MSTP includes a Tree Removal Policy (Exhibit 1) that identifies when it is appropriate to remove a tree, when posting of the removal is and is not required, and when a removal is and is not appealable.

According to the MSTP, public posting for tree removals is not required or appealable for the following:

- The tree is dead or presents an imminent threat to public safety as determined by a certified Arborist.
- The tree is determined by a certified Arborist to be infected with a rapidly spreading pathogen, such as Dutch Elm disease, that poses an immediate hazard to other trees.

In addition, the following is currently exempt from the tree removal policy and is non-appealable:

- Streetscape and other projects that have already received public input and City Council approval for tree removal.

At the November 28 PB meeting, staff recommended modifying the Tree Removal Policy contained in the MSTP to require that the PB review any capital improvement project (CIP) that will remove more than 5% of the street trees in any given block face (one side of a city street block) prior to approval by the City Council. The title of the agenda item for both the PB and City Council meetings shall specifically state the number and size of trees to be removed and the proposed number and size of the replacement trees. In addition, the MSTP has been revised to explicitly state that during the design phase of a project, all practical and reasonable alternatives are to be considered before identifying a tree for removal. The PB agreed with these revisions and requested that the City Council agenda item seeking approval for the tree removal(s) be a regular agenda item and that the report state specifically what percentage of trees are being removed within the project. The proposed policy has been revised to require that both the PB and City Council consider tree removals as a regular agenda items.

Also, to ensure the public is informed throughout the process, staff proposed revisions requiring CIP's to post a public notice on all trees and on the City's website for both the PB and City Council meetings and three weeks prior to any removal. The City Council's vote to remove any tree(s) is final, provided the project commences within two years of

the City Council's action. This is the standard effective approval period for planning projects. Furthermore, should construction of the project occur one year after the City Council's vote, an informational community meeting is to be held prior to commencement of the project. Projects which remove less than 5% of the street trees on any given block face will follow the existing notification and appeal process (Section E of Exhibit 1). The PB agreed with these revisions and requested that the informational community meeting be held at least three weeks prior to the removal of any trees and that, if possible, there be at least one City Council meeting within the three-week window to allow the public to present concerns to the City Council. The proposed policy has been revised to address this request.

Additional staff-recommended modifications include the following minimum posting requirements:

- One day for trees that are dead and present an imminent threat to public safety, as determined by a certified Arborist (currently no posting is required).
- Three days for trees that are dead but do not pose an imminent threat to public safety, as determined by a certified Arborist (currently no posting is required).
- Three days for trees that are diseased with a rapidly spreading pathogen that poses a hazard to other trees, as determined by a certified Arborist (currently no posting is required).

The PB agreed with these revisions and, at the suggestion of a member of the public, requested that an additional category of dying trees be included in the proposed revisions. The following additional category for minimum posting requirements is recommended:

- Three days for trees that are dying and have significant decay (typically at least 70% for most trees), as determined by a certified Arborist. This is consistent with recommendations from the International Society of Arboriculture.

The only time a tree will not be subject to the posting requirement is when it is significantly damaged, and its immediate removal is required for the safety of the general public or to protect significant damage to property.

The PB also requested the following additional changes, which have been incorporated into the revised policy:

- If the CIP has been modified to significantly change the project after the PB and/or the City Council has reviewed and commented on it, a new public meeting shall be held before the project may continue.

- Provide a time frame for replanting trees. The existing policy requires trees to be replanted within 60 to 90 days.

There were several additional comments from the PB that are not directly related to the MSTP:

- The PB suggested that park trees and other trees on public property should be subject to the tree removal and noticing requirements contained in the MSTP.

Staff recommends that the Tree Removal Policy be presented to the Park and Recreation Commission for its review and recommendation to City Council prior to requiring the policy to be applicable to trees within City parks. With regards to trees on other City properties, since there may be implications for other City Departments (for example the Economic Development Department and Housing Authority), the City Manager's Office will work with all affected departments to determine if modifications are required to the policy to meet the specific needs of a particular department and will provide a recommendation to the City Council in the near future.

- The PB also recommended that the City require the Park Street Business Association to provide the additional funds required to maintain the trees.

The City prunes street trees on a five-year cycle using General Fund monies. Young trees especially should be pruned more regularly to develop a strong structure and desirable form. Staff will encourage the Park Street Business Association to provide for the additional pruning requirements and general tree maintenance.

- Provide additional bike parking to the streetscape project.

Public Works staff is actively working with BikeAlameda to provide additional bicycle racks along Park Street. The current project does not have sufficient funds to pay for the purchase and installation of additional bicycle racks as part of the streetscape project; however, there are sufficient Measure B reserve funds available to install bicycle racks as a separate project. The Transportation Commission will be discussing this item at its December 14, 2011 meeting. Once the bicycle rack locations have been identified, staff will proceed with a separate project to install the racks on an expedited basis.

FINANCIAL IMPACT

There is no financial impact associated with approving the modifications to the Tree Removal Policy contained in the Master Street Tree Plan.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

This action does not affect the Municipal Code.

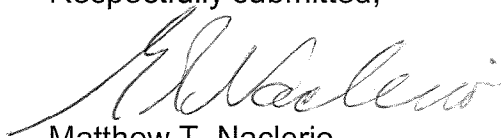
ENVIRONMENTAL REVIEW

Pursuant to CEQA Guideline 15308, Action by Regulatory Agencies for protection of the Environment, approving the modifications to the Tree Removal Policy contained in the MSTP is categorically exempt. The policy assures the maintenance, restoration, and enhancement of a natural resource.

RECOMMENDATION

Approve modifications to the Tree Removal Policy contained in the Master Street Tree Plan.

Respectfully submitted,



Matthew T. Naclerio
Public Works Director

Approved as to funds and account,



for Fred Marsh
Controller

Exhibits:

1. MSTP, Exhibit 1/Tree Removal Policy: pages 108-111
2. Proposed Revisions to Tree Removal Policy

EXHIBIT 1 / TREE REMOVAL POLICY

A. GENERAL TREE REMOVAL POLICY

Although tree removal is a last resort alternative, there are circumstances when it is necessary. An arborist can help decide whether or not a tree should be removed. The City will remove street trees that are: dead; diseased with a rapidly spreading pathogen that poses an hazard to other trees; or presents an imminent threat to public safety or a declared public nuisance. In other cases, where application is made to remove a healthy tree, consideration will be based on the guidelines included in this policy. Tree removal within the public Right-of-Way for private projects will be included in the planning design review process for the project. Tree removal is permissible only after all practical and reasonable alternatives have been considered. There are three types of tree removal: those that do not require public posting as listed above, exempt tree removal and those that require public notice.

B. IMMEDIATE TREE REMOVAL-NOT POSTED

Trees that will not receive public noticing or posting include the following:

1. The tree is dead or presents an imminent threat to public safety as determined by a certified arborist.
2. The tree is determined by a certified Arborist to be infected with a rapidly spreading pathogen, such as Dutch Elm disease, that poses an immediate hazard to other trees.

C. EXEMPT TREE REMOVAL

Streetscape and other projects that have already received public input and City Council approval for tree removal will be exempt from posting.

D. POSTED TREE REMOVAL

Prior to the removal of any tree, except as listed in sections B and C, the City will post a public notice, allowing anyone to protest the removal of the tree. In addition, the city will notify adjacent property owners and post a notice on the city's web page. If a protest is filed, a public meeting will be held as discussed in section E2. Any person aggrieved by the final decision of the Public Works Director may pay the applicable appeal fee and appeal to the City Clerk within two weeks of the Director's decision. No more than 5% of the street trees in any given block face will be removed per year unless a greater percentage is approved by the City Council. Removal is proposed when the Public Works Director determines any of the conflicts listed below cannot be remedied.

1. Site modifications to be evaluated to resolve conflicts before tree removal is considered.

- A. Modify private construction
- B. Root pruning/shaving
- C. Curb modification that provides for adequate drainage for entire block
- D. Reduce sidewalk width near trees yet maintain ADA requirements

- E. Meander sidewalk
- F. Ramp sidewalk
- G. Reduce curb width
- H. Curb breaks
- I. New technology to be evaluated as it develops

2. Types of conflicts

- A. The tree is causing damage to private or public infrastructure that cannot be mitigated by practical and reasonable options as determined by an arborist.
- B. The tree is causing persistent sidewalk and ADA safety concerns and cannot be mitigated by practical and reasonable options as determined by an arborist.
- C. The tree has a disease other than in B2 above, or is in poor health.
- D. The implementation of a tree phasing plan is needed to replace existing trees with more suitable species. Phased tree removal will occur only after a good faith effort is made to adhere to the maximum yearly tree removal percentage noted above. A comprehensive tree removal and proactive replanting plan shall be prepared and approved by City Council for phased removal. Example of conditions that would justify a phased removal plan include: a cluster of dead or dying trees as a result of a pathogen, or segments of excessive and or frequent tree related infrastructure damage that would require a whole row of trees to be removed.
- E. The tree is in conflict with a private improvement plan. If a planning permit is required for the improvement, a street tree removal request must be identified on the planning permit application, which will require notification and removal approval as detailed in this policy prior to the planning permit being processed. All applications to the Planning Department for private improvements that impact the public Right-of-Way must include existing conditions within the public Right-of-Way on the submitted drawings. This includes trees, utility boxes, streetlight and other structures in the public Right-of-Way.
- F. The removal is required to allow for the construction of public improvements when in consultation with an arborist, it is determined that there is no practical and or reasonable alternative available to retain the tree(s).

3. Tools that may be used to evaluate trees posted for removal.

- A. Variables to be evaluated as part of tree removal decision.
 - 1. Biological impacts of tree removal (see Volume 1, Appendix 4 "Protection of Important Nesting Habitat")
 - 2. Tree Species characteristic
 - a. Climate adaptability
 - b. Growth characteristic
 - c. Soil adaptability
 - d. Resistance or tolerance to insects, diseases and other environmental conditions
 - e. Tree is a rare or unusual species in Alameda
 - f. Tree is an especially good example of its type in Alameda
 - 3. Condition of target tree's roots, branches, trunk, foliage
 - a. Structural Integrity
 - b. Tree general health

4. The tree's potential to reach mature height
 - a. Trees reach an economic and aesthetic height at maturity. Each tree species has a different optimal tree height and age. Site condition can enhance or reduce height potential.
5. The target tree is one of a limited number of large trees (i.e. trees over 40' tall) within the impact area. An impact area is defined as a distance equal to double the height of mature species.
6. The tree species is uniquely suited to the site or alternatively the optimal value is decreased at specific site.
 - a. Urban Habitat/Urban forest
 - b. Environmental tolerance
 - c. Property value
7. Value of tree as compared to cost to repair private and public damage by tree
8. Liability associated with tree.
9. Compliance with regulatory requirements, such as ADA
10. Value of tree as compared to future maintenance cost. A value analysis may be provided by an arborist on trees where the site cannot be modified and further analysis of the tree's impact is needed.

B. The model upon which the value analysis was developed is "A Guide for Plant Appraisals" published by the International Society of Arboriculture. A similar document may be used as the basis for value analysis. The variables listed above are to be considered when conducting the value analysis.

E. NOTIFICATION, PROTEST, APPEAL, REMOVAL, AND REPLACEMENT PROCEDURES

1. Notification Procedure

The Public Works Department shall not remove any street tree listed above in Section D, without first:

- a. Posting said tree with a conspicuous notice, and
- b. Notifying in writing the adjacent property owner and
- c. Posting on the City's web page

The notice and letter must be dated three weeks before any action is taken. The notice and letter must contain the reason for the removal. A copy of this policy, which describes the protest and appeal procedure, will be available upon request and on the City's web page.

2. Protest Procedure

Any resident or property owner can protest the removal of a street tree by writing to the Public Works Director no later than three weeks from the date of posting. In the event of a protest:

- a. The Public Works Director shall stop any removal action and reconsider the removal decision.

- b. If the Public Works Director and the citizen lodging the protest cannot reach an agreement, a public hearing date will be identified within two weeks. All concerned parties can attend this hearing and present evidence or testimony.
- c. After the meeting, the Director shall notify all concerned parties of his decision, in writing, within approximately two weeks after the hearing.

3. Appeal Procedure

Any resident or property owner can appeal the decision of the Public Works Director by writing to the Public Works Director or City Clerk, c/o City Hall. All appeals go before the City Council. There is an appeal fee, which is listed in the Master Fee Schedule.

4. Removal Procedure

- a. If there is an appeal, the tree shall not be removed until the City Council has made the final decision. All Council decisions are final and not open to further appeal.
- b. Any tree that is removed shall be replanted with a suitable replacement, provided the new site is in accordance with MSTP spacing criteria. If the tree site is not suitable, the nearest suitable site that complies with Appendix 3 "Preferred Distances Between City Infrastructure and Replacement trees" will be used.

F. PROTECTED TREE REMOVAL POLICY

No protected tree within the Public Right of Way shall be removed without a certificate of approval from the Historical Advisory Board. Protected trees shall include: the Palm trees in the public right of way on Burbank Street and Portola Avenue; any street tree on Thompson and Central Avenues; and any Coastal Live Oak (*Quercus agrifolia*) with a ten inch or greater diameter measured 4.5 feet above the ground. Applicants shall submit an arborist's report in a case where the health of the tree is the reason for the requested removal of the tree, or a contractor's report in a case where damage to foundation or other structure is the reason for the requested removal. Any protected street tree shall be replaced, at the applicant's expense, except those shown to be unhealthy or causing damage to private structures, to the satisfaction of the Public Works Director. Any Oak tree shall be replaced with a minimum of two Oak trees at sites in accordance with MSTP spacing criteria, 15 gallons or larger and to the satisfaction of the Planning and Building Director. (Alameda Municipal Code Sections 13 - 21.7)

G. REPLACEMENT PROCEDURE

- a. In general, trees removed for cause shall be replaced within 60 to 90 days with the same or approved species, in containers no smaller than 15 gallons.
- b. Tree species will be selected so that curb or sidewalk damage will be minimized.
- c. The property owner will be notified that a new tree will be planted and that they will be responsible to water the tree.
- d. The standard procedure is to install a special perforated pipe next to the new plantings, where soil conditions warrant, in accordance with tree planting guidelines.

PROPOSED CHANGES TO TREE REMOVAL POLICY

Additions shown in underlines and deletions shown as ~~strikethroughs~~

EXHIBIT 1/TREE REMOVAL POLICY

A. GENERAL TREE REMOVAL POLICY

Although tree removal is a last resort alternative, there are circumstances when it is necessary. An arborist can help decide whether or not a tree should be removed. The City will remove street trees that are: dead; diseased with a rapidly spreading pathogen that poses an hazard to other trees; or presents an imminent threat to public safety or a declared public nuisance. In other cases, where application is made to remove a healthy tree, consideration will be based on the guidelines included in this policy. Tree removal within the public Right-of-Way for private projects will be included in the planning design review process for the project. Tree removal is permissible only after all practical and reasonable alternatives have been considered. There is only one type ~~are three types~~ of tree removal: those that does ~~those that~~ not require public posting as listed ~~above~~ below, ~~exempt tree removal and those that~~ all other tree removals require some form of public notice.

B.1 IMMEDIATE TREE REMOVAL - NOT POSTED (Non-appealable)

Trees that will not receive public noticing or posting include the following:

1. Trees that are significantly damaged during a storm or from other occurrences that requires its immediate removal for the safety of the general public or to protect significant damage to property. ~~The tree is dead or presents an imminent threat to public safety as determined by a certified arborist.~~
2. ~~The tree is determined by a certified arborist to be infected with a rapidly spreading pathogen, such as Dutch Elm disease, that poses an immediate hazard to other trees.~~

B.2 IMMEDIATE TREE REMOVAL - POSTED AT LEAST ONE DAY PRIOR TO REMOVAL (Non-appealable)

Trees that will be posted at least one day prior to removal include the following:

1. The tree is dead and presents an imminent threat to public safety as determined by a certified arborist, whose report shall be on file in the Public Works Department.

B.3 IMMEDIATE TREE REMOVAL - POSTED AT LEAST THREE DAYS PRIOR TO REMOVAL (Non-appealable)

Trees that will be posted at least three days prior to removal include the following:

1. The tree is dead, but does not present an imminent threat to public safety as determined by a certified arborist, whose report shall be on file in the Public Works Department.

2. The tree is determined by a certified arborist to be infected with a rapidly spreading pathogen, such as Dutch Elm disease, that poses an immediate hazard to other trees. The arborist's report shall be on file in the Public Works Department.

3. The tree is dying and has significant decay (typically at least 70% for most trees), as determined by a certified Arborist. The arborist's report shall be on file in the Public Works Department.

C. TREE REMOVAL ASSOCIATED WITH A CAPITAL IMPROVEMENT PROJECT

1. Capital Improvement Projects that will remove more than 5% of the street trees in any given block face and have been reviewed by the Planning Board and approved by the City Council will be posted at least three weeks prior to removal.

Tree removal is permissible only after all practical and reasonable alternatives have been considered.

During the planning review period for the Capital Improvement Project, the title of the agenda item for both the Planning Board and City Council meetings shall specifically state the number and size of trees to be removed and the proposed number and size of the replacement trees. The project shall be placed on the regular agenda and the report shall state the percentage of trees being removed within the project.

All public input received on the project, including suggested modifications, shall be included in the City Council report recommending approval of the project and describing the modifications made to the project to address the comments received from the public and the Planning Board.

Notification of the potential tree removal(s) and public discussion by the Planning Board and City Council shall also be attached to each tree and posted on the City's web site at least one week prior to the date of the meeting and at least three weeks prior to any tree removal(s). The City Council's decision is final, provided the project commences within two years of the City Council approval. Should construction of the project occur after one year of the City Council approval, an informational community meeting shall be held at least three weeks prior to commencement of the project. There shall be at least one City Council meeting within this three week window to allow the public to present its concerns with the project to the City Council.

Should the capital improvement project be modified to significantly change the project after the Planning Board has reviewed and commented on it, a new public meeting shall be held before the Planning Board prior to the City Council's approval of the project.

C. EXEMPT TREE REMOVAL

~~Streetscape and other projects that have already received public input and City Council approval for tree removal will be exempt from posting.~~

D. ALL OTHER POSTED TREE REMOVALS

Prior to the removal of any tree, except as listed in sections B and C, the City will post a public notice, allowing anyone to protest the removal of the tree. In addition, the eCity will notify adjacent property owners and post a notice on the eCity's web page. If a protest is filed, a public meeting will be held as discussed in section E2. Any person aggrieved by the final decision of the Public Works Director may pay the applicable appeal fee in accordance with the Master Fee Resolution and appeal to the City Clerk Council within two weeks of the Director's decision. No more than 5% of the street trees in any given block face will be removed per year unless a greater percentage is reviewed by the Planning Board and approved by the City Council. Removal is proposed when the Public Works Director determines any of the conflicts listed below cannot be remedied.

**THERE ARE NO PROPOSED MODIFICATIONS
TO THE REMAINING PORTIONS OF THIS POLICY**